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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

C11-05645

Case No.:

15 William Turnley,

16 Plaintiff,

17 vs.

18 Diversified Adjustment Service, Inc. ; and
19 DOES 1-10, inclusive,

20 Defendants.

COMPLAINT FOR DAMAGES
1. VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT,
15 U.S.C. § 1692 ET. SEQ;
2. VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT,
CAL.CIV.CODE § 1788 ET. SEQ.

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES

FILED
NOV 22 2011
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

ADR

BY FAX

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1 For this Complaint, the Plaintiff, William Turnley, by undersigned counsel,
2 states as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt
6 Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of
7 Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to
8 collect a consumer debt.
9

10 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

11 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
12 Defendants transact business here and a substantial portion of the acts giving rise to
13 this action occurred here.
14
15

16 **PARTIES**

17 4. The Plaintiff, William Turnley (hereafter "Plaintiff"), is an adult
18 individual residing in Dublin, California, and is a "consumer" as the term is defined
19 by 15 U.S.C. § 1692a(3).
20

21 5. Defendant Diversified Adjustment Service, Inc. ("Diversified"), is a
22 Minnesota business entity with an address of 600 Coon Rapids Boulevard, Coon
23 Rapids, Minnesota, operating as a collection agency, and is a "debt collector" as the
24 term is defined by 15 U.S.C. § 1692a(6).
25
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1 6. Does 1-10 (the "Collectors") are individual collectors employed by
2 Diversified and whose identities are currently unknown to the Plaintiff. One or more
3 of the Collectors may be joined as parties once their identities are disclosed through
4 discovery.
5

6 7. Diversified at all times acted by and through one or more of the
7 Collectors.
8

9
10 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

11 **A. The Debt**

12
13 8. The Plaintiff allegedly incurred a financial obligation (the "Debt") to
14 Pacific Gas & Electric Company (the "Creditor").

15 9. The Debt arose from services provided by the Creditor which were
16 primarily for family, personal or household purposes and which meets the definition
17 of a "debt" under 15 U.S.C. § 1692a(5).
18

19 10. The Debt was purchased, assigned or transferred to Diversified for
20 collection, or Diversified was employed by the Creditor to collect the Debt.
21

22 11. The Defendants attempted to collect the Debt and, as such, engaged in
23 "communications" as defined in 15 U.S.C. § 1692a(2).
24
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1 **B. Diversified Engages in Harassment and Abusive Tactics**

2
3 12. Within the last year, Diversified contacted Plaintiff in an attempt to
4 collect the Debt.

5
6 13. During the initial conversation and during each conversation thereafter,
7 Plaintiff requested that Diversified cease placing calls to him and informed him that
8 he would not pay the Debt to Diversified.

9
10 14. Thereafter, Diversified contacted Plaintiff at an excessive and harassing
11 rate, calling up to two (2) calls a day to Plaintiff in an attempt to collect the Debt.

12
13 15. During one conversation, Plaintiff advised Diversified that he would be
14 paying the Creditor and again instructed Diversified to cease all calls. Thereafter,
15 Diversified continued to place daily calls to Plaintiff.

16
17 16. Diversified often times caused Plaintiff's phone to ring with one call after
18 the other, causing Plaintiff a great amount of distress and frustration.

19
20 **C. Plaintiff Suffered Actual Damages**

21
22 17. The Plaintiff has suffered and continues to suffer actual damages as a
23 result of the Defendants' unlawful conduct.

24
25 18. As a direct consequence of the Defendants' acts, practices and conduct,
26 the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety,
27 emotional distress, fear, frustration and embarrassment.

1 19. The Defendants' conduct was so outrageous in character, and so extreme
2 in degree, as to go beyond all possible bounds of decency, and to be regarded as
3 atrocious, and utterly intolerable in a civilized community.
4

5
6 **COUNT I**
7 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**
8 **15 U.S.C. § 1692, et seq.**

9 20. The Plaintiff incorporates by reference all of the above paragraphs of this
10 Complaint as though fully stated herein.

11 21. The Defendants contacted the Plaintiff at a place and during a time
12 known to be inconvenient for the Plaintiff, in violation of 15 U.S.C. § 1692c(a)(1).
13

14 22. The Defendants engaged in behavior the natural consequence of which
15 was to harass, oppress, or abuse the Plaintiff in connection with the collection of a
16 debt, in violation of 15 U.S.C. § 1692d.
17

18 23. The Defendants caused a phone to ring repeatedly and engaged the
19 Plaintiff in telephone conversations, with the intent to annoy and harass, in violation
20 of 15 U.S.C. § 1692d(5).
21

22 24. The Defendants employed false and deceptive means to collect a debt, in
23 violation of 15 U.S.C. § 1692e(10).
24

25 25. The foregoing acts and omissions of the Defendants constitute numerous
26 and multiple violations of the FDCPA, including every one of the above-cited
27 provisions.
28

26. The Plaintiff is entitled to damages as a result of the Defendants' violations.

COUNT II
VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION
PRACTICES ACT, Cal. Civ. Code § 1788 et seq.

27. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

28. The Rosenthal Fair Debt Collection Practices Act, California Civil Code section 1788 et seq. (“Rosenthal Act”) prohibits unfair and deceptive acts and practices in the collection of consumer debts.

29. Diversified Adjustment Service, Inc., in the regular course of business, engages in debt collection and is a “debt collector” as defined by Cal. Civ. Code § 1788.2(c).

30. The Defendants caused a telephone to ring repeatedly and engaged the Plaintiff in continuous conversations with an intent to annoy the Plaintiff, in violation of Cal. Civ. Code § 1788.11(d).

31. The Defendants communicated with the Plaintiff with such frequency as to be considered harassment, in violation of Cal. Civ. Code § 1788.11(e).

32. The Defendants failed to comply with the provisions of 15 U.S.C. § 1692, *et seq.*, in violation of Cal. Civ. Code § 1788.13(e).

1 33. The Defendants did not comply with the provisions of Title 15, Section
2 1692 of the United States Code, in violation of Cal. Civ. Code § 1788.17.

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4 34. The Plaintiff is entitled to damages as a result of the Defendants'
5 violations.

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7 **PRAYER FOR RELIEF**

8 WHEREFORE, the Plaintiff prays that judgment be entered against the
9 Defendants:

10
11 A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the
12 Defendants;

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14 B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A)
15 against the Defendants;

16
17 C. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C.
18 § 1692k(a)(3) against the Defendants;

19 D. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);

20
21 E. Statutory damages of \$1,000.00 for knowingly and willfully committing
22 violations pursuant to Cal. Civ. Code § 1788.30(b);

23 F. Actual damages from the Defendants for the all damages including
24 emotional distress suffered as a result of the intentional, reckless, and/or
25 negligent FDCPA violations and intentional, reckless, and/or negligent
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1 invasions of privacy in an amount to be determined at trial for the
2 Plaintiff;

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4 G. Punitive damages; and

5 H. Such other and further relief as may be just and proper.
6

7 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
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9

10
11 DATED: November 22, 2011

TAMMY HUSSIN

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14 By: /s/ Tammy Hussin
15 Tammy Hussin *Of Counsel*
16 Lemberg & Associates
17 Attorney for Plaintiff William Turnley
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